HUD UPDATE
2017
NAHC HUD Update 2017 outline

Short Topics – one page in hand out
Trump Administration
2018 HUD Budget
Section 8 Renewals New policies
DUNS
Handbook 4350.1
PBCA Contracts

Various Topics – in handout
VAWA
REAC Inspections
Fair Housing
Smoke Free Environment
Generators and Disasters
Lead Based Paint

REFERENCES – in handout
Who is Ben Carson
Forms VAWA
We are now in the era of Trump. Nothing is scared, not even housing. Uncertainty.

Housing Secretary Ben Carson – Interesting article about him in your package in the reference section. The good news is the appointment of Assistant Secretary Pam Patenaude, a housing veteran of decades and was on the short list if the real estate industry for Secretary.


2017-2018 Budget
The president’s skinny budget c- HUD cut 6.2 billion dollars
Secretary Carson claims the infrastructure funding will fill in the gap – nothing yet
Congress’s Budget makes up most of what the president cut in the HUD Budget

President Trump’s Executive Order 13781
Orders the Office of Management and Budget (OMB) to examine all agencies to determine waste, duplication and to improve efficiency in government. President Trump gave OMB 180 days to have the report to him. Then there would be another 180 days for each agency to develop a reorganization plan. Didn’t HUD just do that during the transition plan?

Secretary Carson promised to re-examine HUD’s Affirmatively Furthering Fair Housing (AFFHD) Rule. This rule is for local municipalities who receive Federal funding to examine their housing patterns looking for racially bias local rules.

For guidance on the new Section 8 policies and procedures, please visit -- https://www.hud.gov/program_offices/public_indian_housing/.../hcv/.../guidebook

Section 8 Payments – you must now have a DUNS number

HUD is continually working on the Handbook 4350.1 – Multifamily Asset Management and Project Servicing

PBNA – HUD will probably issue the bidding process sometime in 2018.
VAWA
HUD Provides VAWA Guidance for PHAs & Owners Who Accept Vouchers

HUD's Office of Public and Indian Housing recently issued Notice PIH-2017-08, which provides guidance on complying with the Violence Against Women Reauthorization Act of 2013 (VAWA 2013). The notice is directed to PHAs and owners of private housing who accept Housing Choice Vouchers.

On Nov. 16, 2016, HUD issued a final rule (VAWA Final Rule) implementing VAWA 2013 for HUD's housing programs. Because Notice PIH-2017-08 doesn't touch on every aspect of the VAWA Final Rule, the notice should be used in conjunction with the VAWA Final Rule (which can be found here). The VAWA Final Rule includes core protections across HUD programs, ensuring individuals are not denied assistance, evicted, or have their assistance terminated because of their status as survivors of domestic violence, dating violence, sexual assault, or stalking, or for being affiliated with a victim. In addition, HUD programs must be operated in a manner consistent with the Equal Access Rule, which requires HUD-assisted housing be made available regardless of actual or perceived sexual orientation, gender identity, or marital status.

The notice summarizes the major changes to the Public Housing, Housing Choice Voucher (HCV), and Project Based Voucher (PBV) programs. Among the topics covered by the notice are who may receive VAWA protections, emergency transfers, family breakup, and lease bifurcation, and establishing waiting list preferences. Here, we'll highlight the major changes to the Public Housing and voucher programs as a result of the VAWA Final Rule, as well as the certification and documentation of domestic violence, sexual assault, dating violence, or stalking.

**Summary of Major Changes to Public Housing and Voucher Programs**

As the notice explains, the VAWA Final Rule:

- Specifies “sexual assault” as a crime covered by VAWA in HUD-covered programs;

- Clarifies that, consistent with HUD's nondiscrimination and equal opportunity requirements, victims of domestic violence, dating violence, sexual assault, and stalking cannot be discriminated against on the basis of any protected class, and HUD programs must also be operated in a manner consistent with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing must be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status;

- Establishes new definitions (e.g., “affiliated individual” and “sexual assault”) and revises previously defined terminology (e.g., “bifurcate” and “stalking”);

- Establishes new requirements for notification of occupancy rights under VAWA, and transmits a model Notice of Occupancy Rights Under the Violence Against Women Act (form HUD-5380);

- Provides that applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking;

- Establishes the requirement to create an emergency transfer plan, establishes record keeping and reporting requirements, and provides a model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (form HUD-5381), and Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking form (form HUD-5383);
Revises requirements for documenting the occurrence of domestic violence, dating violence, sexual assault, or stalking, and provides a new Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (form HUD-5382).

Where the covered housing provider exercises the option to bifurcate a lease and the evicted or terminated tenant was the recipient of assistance at the time of bifurcation, establishes a new requirement for reasonable time periods during which the tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking may remain in the unit while establishing eligibility under the current housing program or under another covered housing program, or seeking alternate housing;

Revises various HCV, PBV, and Public Housing regulations from the 2005 reauthorization of VAWA (VAWA 2005) to broadly state that VAWA protections apply, so that all tenants and applicants, and not only those determined to be victims of domestic violence, dating violence, sexual assault, or stalking, receive statutorily required notification of their VAWA rights;

Clarifies that PHAs may establish a preference for victims of dating violence, sexual assault, and stalking, in addition to domestic violence; and

Establishes new requirements under PBV for a family's right to move as a result of the family, or a member of the family, being or having been the victim of domestic violence, dating violence, sexual assault, or stalking.

**Certification of Domestic Violence, Sexual Assault, Dating Violence, or Stalking**

VAWA 2013 required HUD to create a certification form to serve as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking. The VAWA Final Rule provided this certification form: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation, form HUD-5382. PHAs must include form HUD-5382 with the VAWA Notice of Occupancy Rights (form HUD-5380). These forms are available at hud.gov/hudclips.

Form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, previously used for the Public Housing and HCV programs to serve as a means of documenting the incident or incidents of domestic violence, dating violence, sexual assault, or stalking is obsolete.

Form HUD-5382 is for use by all HUD-covered programs, including Public Housing and HCV programs, and it must be publicly available and provided upon request. The form HUD-5382:

- Provides that VAWA 2013 protects applicants, tenants, and program participants from being evicted, denied assistance, or terminated from housing assistance based on act of domestic violence, dating violence, sexual assault, or stalking;

- Is an optional way for victims to comply with a written request for documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking for persons seeking VAWA protections;

- Provides that the victim or someone on the victim's behalf may complete the form;

- Provides a list of alternative third-party documentation to satisfy a request by a PHA or owner for documentation;
Explains the time period for responding to a written request for documentation;

Describes the confidentiality protections under VAWA;

Requires that the victim or someone filling out the form on the victim's behalf must answer 10 numbered questions and provide a brief description of the incident(s);

Clarifies that the name of the accused perpetrator does not have to be provided if it is unknown to the victim or it cannot be provided safely;

Clarifies that the date and time of incident should be completed only if known by the victim;

Requires the victim or someone filling out the form on the victim's behalf to certify to the truth and accuracy of the information being provided, and explains that false information could be the basis for denial of admission, termination of assistance, or eviction; and

Includes required public reporting burden information.

When practicable, HUD encourages PHAs and owners to advise applicants, tenants, and program participants that when the PHA or owner receives a form submitted on their behalf, such submission will take the place of the applicants, tenants, or program participants submitting their own statement. Thus, applicants, tenants, or program participants should ensure, to the extent possible, that the information is accurate and comprehensive.

The form HUD-5382 must be made available by the PHA in multiple languages, consistent with HUD's Limited English Proficiency Guidance. In addition, consistent with civil rights requirements, when obtaining information through the form, PHAs must take appropriate steps to ensure effective communication with applicants, tenants, and participants with disabilities through the use of appropriate auxiliary aids and services, such as large print and braille documents, readers, interpreters, and accessible electronic documents. PHAs must also provide reasonable accommodations when necessary to allow applicants, tenants, and participants with disabilities to equally benefit from VAWA protections, such as providing individualized assistance in completing forms.

Acceptance of Verbal Statement
The VAWA Final Rule clarifies that PHAs and owners are not required to ask for documentation when an individual presents a claim for VAWA protections. The PHA or owner may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. HUD recommends that PHAs and owners develop written policies for how and under what circumstances a verbal statement will be accepted, such as the PHA was aware of the abuse and encouraged the victim to request VAWA protections. It is recommended that in cases where a PHA or owner decides to rely on such information, the PHA or owner document, in a confidential manner, the individual's verbal statement or other corroborating evidence.

Requesting Documentation
If the PHA or owner chooses to request an individual to document her claim of domestic violence, dating violence, sexual assault, or stalking, the PHA or owner must make such request in writing. Simply giving the victim the form HUD-5382 does not constitute a written request for documentation, unless the form HUD-5382 is accompanied by a dated letter requesting documentation. The
individual may satisfy this request by providing any one of the following documents:

a. Form HUD-5382;

b. A document signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical or mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; and that is signed by the applicant or tenant; and that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

c. A record of a federal, state, tribal, territorial, or local law enforcement agency (including a police report); court; or administrative agency; or

d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The PHA or owner must accept any of the above items. For example, form HUD-5382 must be accepted in lieu of any of the third-party documents outlined above (b or c), if the individual chooses to self-certify to satisfy the PHA or owner's request for documentation, and the submitted documentation doesn't contain conflicting information.

The PHA or owner has discretion to accept a statement or other evidence (d). PHAs are encouraged to develop written policies as to whether they will exercise discretion as provided for under (d). PHAs are encouraged to note whether a statement or other evidence will be accepted. If other evidence will be accepted, HUD recommends that the PHA or owner define “acceptable evidence.”

**Time to Submit Documentation**

The PHA or owner may require submission of documentation within 14 business days after the date that the individual received the written request for documentation. But the PHA or owner may extend this time period at its discretion. During the 14-business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection. For example, PHAs must not schedule an eviction, grievance hearing, informal review, or informal hearing to take place during this time frame.

In determining whether to extend the 14-business day period, PHAs and owners are encouraged to consider factors that may contribute to the victim's inability to provide the documentation in a timely manner. These factors may include, but are not limited to: cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court records, the danger of further violence, and the victim's need to address health or safety issues. PHAs and owners must also grant reasonable accommodations for persons with disabilities. Also note that because of these factors, the PHA or owner might not be contacted by the victim with a request to extend the 14-business day period until after the 14-day period has passed.
Requests for Third-Party Documentation of Victim Status

When an applicant or tenant requests protection under VAWA, the VAWA Final Rule allows (but doesn't require) the housing provider to require the applicant or tenant to submit documentation of victim status, such as documentation showing the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault or stalking. However, the VAWA Final Rule prohibits a covered housing provider from requiring the victim to provide third-party documentation of victim status, unless:

- More than one applicant or tenant provides documentation to show they are victims of domestic violence, dating violence, sexual assault or stalking, and the information in one person's documentation conflicts with the information in another person's documentation; or

- Submitted documentation contains information that conflicts with existing information already available to the PHA or owner.

In these circumstances, the regulations allow a PHA or owner to require the applicant(s) or tenant(s) to submit third-party documentation that meets the appropriate criteria. According to the criteria, the applicant or tenant may submit any of the following to meet the third-party documentation request:

- A document signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical or mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; that is signed by the applicant or tenant; and that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or

- A record of a federal, state, tribal, territorial, or local law enforcement agency, court, or administrative agency (for example, a police report) that documents the incident of domestic violence, dating violence, sexual assault, or stalking; or

- At the discretion of the covered housing provider, a statement or other evidence provided by the applicant or tenant.

The applicant(s) or tenant(s) must be given 30 calendar days from the date of the request to provide such documentation. If an applicant or tenant responds with third-party documentation that meets the criteria above and supports the applicant or tenant's VAWA request, the PHA or owner is prohibited from requiring further documentation of the applicant or tenant's status as a victim of domestic violence, dating violence, sexual assault, or stalking. However, if an applicant or tenant doesn't submit any third-party documentation within the required time period or submits documentation that doesn't meet the criteria above, the PHA or owner may, but is not required to, accept that applicant or tenant's assertion of victim status for the purpose of the VAWA protections.

For purposes of providing VAWA protections, satisfying the documentation criteria resolves the question of whether the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking.

It's important to note that in the case of conflicting documentation between two tenants, if one tenant submits a court order addressing rights of access or control of the property (such as a protection order granting the victim exclusive possession of the unit), the PHA or owner must honor this court order.

If the PHA or owner requests, but doesn't receive third-party documentation, the PHA or owner has the option to deny VAWA protections and must notify the applicant or tenant. If this results in a tenant(s) being terminated from assistance, the PHA must hold a separate informal hearing (HCV) or grievance hearing (Public Housing) for the tenant. When denying VAWA protections, the PHA or owner must ensure that it complies with PIH Notice 2015-19. Alternatively, the PHA may have a family break-up policy allowing for assistance to be provided to both occupants during VAWA protections.
When To Consider ‘Adverse Factors’ – Specific Examples

Don’t ignore missed work to attend court hearings, seek counseling, or get medical care

If you’re not sure what the Violence Against Women Reauthorization Act of 2013 (VAWA) really means when it references “adverse effects” or “adverse factors,” you’re not alone. But thankfully, the U.S. Department of Housing and Urban Development (HUD) offered some clues in the recent Notice H 2017-05.

Listed below are examples of when adverse factors might be a direct result of domestic violence, dating violence, sexual assault, or stalking. If you encounter any of these factors, you should consider them carefully when dealing with potential evictions and other tenancy issues.

Important: The new notice contains a provision that prohibits you from denying admission to, denying assistance under, terminating participation in, or evicting a tenant based on a so-called adverse factor. This is true if you determine that the adverse factor is a direct result of the applicant/tenant’s being a victim of domestic violence, dating violence, sexual assault, or stalking.

Poor Credit History: In certain circumstances, a victim of domestic violence, dating violence, sexual assault, or stalking may have poor credit due to a perpetrator:

- Forcing a victim to obtain credit, including credit cards for the perpetrator’s use;
- Using a victim’s credit or debit card without permission, or forcing him or her to do so;
- Selling a victim’s personally identifiable information to identity thieves;
- Running up debt on joint accounts;
- Obtaining loans/mortgages in a victim’s name;
- Preventing a victim from obtaining and/or maintaining employment;
- Sabotaging work or employment opportunities by stalking or harassing a victim at the workplace, or causing a victim to lose his or her job by physically battering the victim prior to important meetings or interviews;
- Placing utilities or other bills in a victim’s name and then refusing to pay;
- Forcing a victim to work without pay in a family business, or forcing him or her to turn the earnings over to the abuser;
- Job loss or employment discrimination due to status as a victim of domestic violence, dating violence, sexual assault, or stalking;
- Job loss or lost wages due to missed work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime; and/or
- Hospitalization and medical bills the victim cannot pay or cannot pay along with other bills.

Poor Rental History: A victim may have poor rental history due to domestic violence, dating violence, sexual assault, or stalking that results in:

- Property damage;
- Noise complaints;
- Harassment;
- Trespassing;
- Threats;
- Criminal activity;
- Missed or late utility payments;
- Missed or late rental payments;
- Writing bad checks to the landlord; and/or
- Early lease termination and/or short lease terms.
Criminal Record: A victim may have a criminal record as a direct result of domestic violence, dating violence, sexual assault, or stalking that leads to:

- Forcing a victim to write bad checks, misuse credit, or file fraudulent tax returns;
- Property damage;
- Theft;
- Disorderly conduct;
- Threats;
- Trespassing;
- Noise complaints;
- Family disturbance/trouble;
- 911 abuse;
- Public drunkenness;
- Drug activity (drug use and the selling of drugs);
- Crimes related to sex work;
- Failure to protect a child from a batterer’s violence and/or abuse;
- Crimes committed by a victim to defend him or herself, or in defense of a third party, from domestic violence, dating violence, sexual assault, or stalking; and/or
- Human trafficking.

REAC
How to Request a 'Technical Review' to Raise REAC Inspection Score

If you work for a PHA or own a property that's required by HUD to undergo physical property inspections with the Real Estate Assessment Center (REAC), it's important to keep your property safe and sanitary. Doing so will maintain and increase federal funds for your site and reduce the frequency of future REAC inspections.

According to HUD, nearly 4 million American families live in rental housing that is owned, insured, or subsidized by HUD. To ensure these families have housing that's decent, safe, sanitary, and in good repair, REAC conducts approximately 20,000 physical inspections on properties each year.

There may be a time when you disagree with a REAC physical inspection score assigned to your site. HUD provides two processes to challenge a physical inspection score. We'll go over what type of appeal you need to file after you've determined which finding you want to challenge and the types of third-party documentation you'll need to win your appeal. We'll also cover where to send the appeal and the deadline for submitting the information.

Database Adjustment vs. Technical Review

If you disagree with REAC's physical assessment, you may request a review. There are two different processes available to appeal a physical inspection score—a technical review and a database adjustment.

According to HUD, you may request a technical review if, during the physical inspection, an objectively verifiable and material error occurred that, if corrected, would result in an improvement in the property's overall score. In other words, for a successful technical review appeal, you need to prove that an inspector's citation is technically wrong. For example, if an inspector includes a citation for an item that is stated as not working and you can show that it does work, this would be a technical appeal. You would need to provide verification from a licensed, professional, qualified third party clarifying how the item actually does work and how this determination was made.

Alternatively, an appeal that involves a request for a database adjustment initiates a review of the results of a physical inspection. A database adjustment may be requested for circumstances affecting the inspected property that are out of the ordinary, reflect an inconsistency with ownership, or are allowed by city, county, or state codes. Here, the issue cited by the inspector isn't being refuted; instead you agree that the item was deficient, but it met one of four mitigating factors to allow your score to increase. For a more complete discussion on database adjustment appeals, see "How to Ask HUD for 'Database Adjustment' to Raise REAC Inspection Score."

Technical Review Qualifications

Only objectively verifiable, material errors will be considered for a technical review. Material errors are those that exhibit specific characteristics and meet specific thresholds. The three types of material errors are:
Building data errors. The inspection includes the wrong building or a building that isn’t owned by the property.

Unit count errors. The total number of units considered in scoring is incorrect as reported at the time of the inspection.

Non-existent deficiency errors. The inspection cites a deficiency that didn’t exist at the time of the inspection.

Some owners attempt to base a REAC inspection appeal on the behavior of their particular inspector. They may point out specifics of what the inspector did or did not do differently from previous inspections. These observations can’t be used to adjust the score as these observations don’t adequately refute the existence of the deficiencies they may have observed. In addition, REAC won’t consider the following for a technical review:

- Disagreements over the severity of a defect, such as deficiencies rated Level 3 that an owner believes should be rated Level 1 or 2;
- Deficiencies that were repaired or corrected during or after the inspection;
- Deficiencies recorded with no associated point loss (for example, inoperable smoke detectors); or
- Deficiencies caused by residents.

What to Include

An owner can initiate the technical review process by notifying REAC in writing within the appropriate time period and supplying reasonable evidence. Though HUD does have a template form available for appeal submissions, there is no specific form required for an appeal. The templated form can be found here.

Public housing authorities must submit a request for a technical review that’s received at REAC within 30 days from the physical inspection report release date. And multifamily owners must submit a request for a technical review that’s received at REAC within 30 days from the physical inspection report release date. The request must include an email address of the request originator.

Identifiers. Your appeal should include all property identification such as property name, property identification number, the Inspection Summary Report number, and specific information relevant to your request. You should also include all location information (inspectable area, building number, unit number, etc.) for each deficiency presented in the request for review.

Documenting your request. All requests for technical review must include documentation to sufficiently support the request. Appropriate documentation must be objectively verifiable and includes one or a combination of the following:

- **Written material.** Letters from objective sources, such as a licensed engineer or building code official, are considered to be appropriate documentation. These documents should detail the exact location of the variance (such as building address and unit number).

- **Photographs.** All photographs must clearly show the element(s) in question, and accurately reflect the inspectable area and item. Label each photograph with the date and location.

- **Videos.** As with photographs, videos must accurately reflect the entire inspectable area or item. All videos should include the date and specific location.

For examples of documentation that is and is not acceptable, see "Examples of Technical Reviewed Items & Supporting Documentation."
Where to Send

The information and proper documentation for a technical review must be mailed to the following address:

U.S. Housing and Urban Development/PIH/REAC
Attn: Technical Assistance Center/TR/DBA
550 12th St. SW, Ste. 100
Washington, DC 20410

What to Expect in Response

If the REAC evaluation determines that an objectively verifiable and material error(s) has been reasonably documented by the owner or PHA and, if corrected, would result in a significant improvement in the property’s overall score, REAC will take one or a combination of the following actions:

- Schedule a new inspection; or
- Correct the physical inspection report; and
- Issue a corrected physical condition score.

An email will be sent to the originator of the request (a copy will be sent to the Primary Contact listed in the inspection report) explaining what action, if any, has occurred and why the technical review is accepted or denied.

### Examples of reviewed items & supporting documentation

<table>
<thead>
<tr>
<th>EXAMPLES OF OBSERVED DEFICIENCY</th>
<th>OBJECTIVE &amp; VERIFIABLE DOCUMENTATION</th>
<th>DOCUMENTATION NOT CONSIDERED OBJECTIVE/VERIFIABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Exterior — Foundations Cracks/Gaps</td>
<td>A signed letter from a licensed professional structural engineer with his/her seal stating that the deficiency does not exist.</td>
<td>Letter from a general contractor/individual who is not licensed to give such opinion.</td>
</tr>
<tr>
<td>Site Grounds — Overgrown, Penetrating Vegetation</td>
<td>A dated picture or video showing the whole site that overgrown vegetation does not exist immediately prior to or on the inspection date.</td>
<td>A video or picture without a date/time stamp. A time-stamped video or picture showing vegetation touching the building or growing over a walkway, etc. — the inspector’s judgment will prevail.</td>
</tr>
<tr>
<td>Common Area or Dwelling Unit Doors — Deteriorated/Missing Seals (Entry Only)</td>
<td>A manufacturer’s guide that states seals/weather stripping was never installed and a picture that clearly identifies the inspected door that matches the manufacturer’s guide.</td>
<td>A letter from the PHA/owner saying there were no seals on the door when it was purchased.</td>
</tr>
<tr>
<td>Building Systems — Missing Sprinkler (sprinkler components painted over)</td>
<td>An inspection report from a fire sprinkler company or local code official, dated on or immediately after the inspection, that clearly states the specific painted components (frame, thermal linkage, cap, deflector, or escutcheon) do not affect the effectiveness of the fire suppression system.</td>
<td>A letter from the PHA/owner saying the owner/manager called the sprinkler company and the vendor said it was okay to paint the components.</td>
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</tbody>
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Procedural Changes to HUD REAC Failed Inspections Signed into Law

As a result of President Trump signing a new HUD appropriations bill in early May, the rules that govern what happens when a site fails its REAC inspection have changed. The appropriations bill included Section 223, which details changes to the required provisions for properties that score 59 or lower on an inspection. The changes underscore the growing scrutiny on physical inspection compliance at HUD assets.

The most notable changes are that enforcement actions begin after the first failed REAC, not the second consecutive inspection, and that the options for enforcement action have expanded from four options to nine. The highlights of the new law are:

■ On REAC scores 59 or less, the HUD office must notify the owner/agent within 15 days that they are in default of their regulatory agreement for their failure to maintain the property in a decent, safe, and sanitary condition. Previously, this was 30 days; and

■ When notifying the owner of the default of the regulatory agreement, the HUD office is required to provide a time frame for the owner to conduct a 100 percent survey inspection and repair any and all issues. This is typically a 60-day period, but now that section has been replaced with “a specific timetable,” which leaves open the possibility of both shorter and greater periods to correct issues.

Previous rules and regulations set out four options for enforcement on failed REAC inspections; this has now been expanded and clarified. The expanded options are:

1. Require immediate replacement of the management agent;
2. Impose civil money penalty;
3. Abatement of the Section 8 contract;
4. Transfer of the project to a new owner;
5. Transfer of the Section 8 contract to another project;
6. Pursue exclusionary sanctions, including suspension and debarments from federal programs;
7. Seek judicial appointment of a receiver of the property who would manage the property and cure all noncompliance;
8. Work with the owner, lender, or other party to stabilize the property through a work-out plan to correct noncompliance;
9. Take any other action that is deemed necessary or appropriate.

Additional language in the new law requires the HUD Secretary to report quarterly to Congress on the status of all properties with failing scores and on what steps have been taken, and presumably, if the overall number of troubled properties has increased or decreased since the previous reporting period.
FAIR HOUSING
LGBT Language 101: Improve Your Gender-Identity Vocabulary

Understand the difference between ‘transgender’ and ‘non-binary’

A single misstated term or phrase could make housing applicants and tenants think that you’re discriminating against them based on their gender identity. Don’t let this happen to you — know the correct Lesbian, Gay, Bisexual and Transgender (LGBT) language to use and what it all means.

Here are some of the terms and definitions highlighted in the recent U.S. Department of Housing and Urban Development (HUD) webinar on the Equal Access and Gender Identity Rules:

- **Transgender**: Umbrella term for people whose gender identity is different from their assigned sex. Occasionally, an individual may determine they no longer identify as transgender after they transition.

- **Transitioning (Gender Transition)**: Process that some (but not all) transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth. Transitioning does not necessarily require medical treatment.

- **Gender Identity**: Internal or innate sense of being male, female, or another gender; may or may not match their assigned sex at birth.

- **Gender Expression**: External expression of gender identity (note that many times people do not feel they can safely express their gender identity), exhibited through behavior, clothing, hairstyle, body language, and voice.

- **Sexual Orientation**: Physical or emotional attraction to the same and/or opposite sex; distinct from one’s gender expression or identity. Sexual orientation includes gay, lesbian, bisexual, straight, bisexual, asexual and questioning. (Note that many people consider the term “homosexual” outdated and offensive.)

- **Non-Binary Identity**: Also known as “genderqueer,” an umbrella term describing an individual whose gender does not fit within the male-female spectrum. Non-binary/genderqueer individuals do not identify as male or female. Non-binary/genderqueer is different from transgender.

- **Intersex**: Umbrella term that describes people who have (were born with) natural variations that differ from conventional ideas about “female” or “male” bodies. Such natural variations may include genital and chromosomal, as well as a range of other physical characteristics. Do not confuse intersex with transgender. (Note that in most English-speaking cultures today, referring to intersex people as “hermaphrodites” is considered rude.)

- **Sex Reassignment Surgery (SRS)**: Refers to a surgical procedure to transition an individual from one biological sex to another. SRS is often paired with hormone treatment and psychological assistance prior to and/or following surgery. SRS is the preferred term to “sex change operation.” Not all transgender people choose to or can afford to have SRS.

SMOKE
FREE
Environment
Smoke-Free Rule: Engage Residents & Ramp Up Your Compliance Efforts

Heed these warnings before attempting to adopt stricter policies

If you find implementing the Smoke-Free Rule a bit daunting and time-consuming, you're not alone. Public housing agencies (PHAs) across the country are scrambling to comply with this new final rule. Let us help! Here's what you need to know about the requirements, the flexibilities, and how to comply immediately.

Start Your Implementation—Now!

On Dec. 5, 2016, the U.S. Department of Housing and Urban Development (HUD) published a final rule in the Federal Register that bans smoking in certain public housing areas (see "No Longer Optional: Make Your Property Smoke-Free Now," AHA Vol. 13, No. 1, page 1). The so-called Smoke-Free Rule requires PHAs to adopt smoke-free policies within the next 18 months.

The Smoke-Free Rule requires PHAs to design and implement a policy prohibiting the use of tobacco products in all public housing units, interior common areas, and outdoor areas within 25 feet of public housing and administrative office buildings, according to the National Low Income Housing Coalition (NLIHC). On Feb. 15, HUD released Notice PIH-2017-03, "HUD Guidance on Instituting and Enforcing Smoke-Free Public Housing Policies," which provides important guidance on how to comply with the Smoke-Free Rule.

Pay attention: If you do post signs about your new smoke-free policy, you must make sure that the signs are accessible to all residents and visitors, including persons with disabilities. Make sure the signs are in multiple languages to comply with HUD's requirements on Limited English Proficiency (LEP).

Take 2 Key Steps Before You Amend Your PHA Plan & Leases

You must obtain board approval when creating your smoke-free policy and document that policy in your PHA plan, according to the Notice.

Do this: First, you need to determine whether adopting a smoke-free policy constitutes a significant amendment or modification to your PHA plan. And second, if you determine that this is indeed a significant amendment, you must hold public meetings according to the standard amendment procedures.

What's more: You also need to amend your individual resident leases and have all residents sign the lease amendment as a condition of their continuing occupancy.

You must incorporate the smoke-free requirement, barring residents (as well as residents' household members, residents' guests, or other people under the resident's control) from smoking prohibited tobacco products in restricted areas, or in other outdoor areas that you've designated as smoke-free. Also, your lease amendments should note the availability and location of any designated smoking areas (DSAs).
Be sure to notify residents of this lease revision at least 60 days before you make the revision, and give residents a reasonable amount of time to accept the revision. **HUD** will allow you to set a specific date that the policy will take effect.

Keep in mind that you can process lease amendments anytime during the 18-month required timeframe. **HUD** is giving you flexibility regarding how the lease amendment process occurs during the 18-month implementation period after the final rule's effective date.

**Good idea:** Additionally, the Notice "encourages PHAs to include information in the lease amendment about what the PHA will do regarding residents with disabilities who smoke and request a reasonable accommodation," NLIHC states. **HUD** also encourages you to provide residents with information on smoking cessation assistance.

**Adopt Stricter-Than-HUD Policy at Your Own Risk**

You do have some flexibility in how you implement your smoke-free policy—but be sure you understand the limitations of your options.

**Choices:** For example, **HUD** allows you to choose whether to prohibit Electronic Nicotine Delivery Systems (ENDS), such as e-cigarettes and vapes. You have discretion on whether to limit smoking to DSAs only, on whether to extend your smoke-free perimeter beyond 25 feet, and whether to designate the entire campus as smoke-free.

**Beware:** But before you adopt stricter smoke-free policies than the **HUD** final rule requires, make sure you check your state and local laws. Adopting more stringent policies could expose you to legal risk under such laws, **HUD** warns.

**Essential:** Also, if you do decide to provide DSAs, you must make sure they have appropriate seating, shade, and adequate lighting, NLIHC notes. DSAs must be accessible to residents with disabilities via flat or paved pathways and/or ramps or other accommodations.

**E-Cigs: To Ban or Not to Ban?**

The Smoke-Free Rule does not prohibit the use of ENDS like e-cigarettes, but **HUD** allows you the option to ban them. You could prohibit ENDS from all developments and common areas, or you may allow them within a resident’s unit but ban them in common areas.

**HUD’s** Notice points to research showing that the aerosol users exhale from e-cigarettes contains nicotine and potentially harmful ingredients, although at much lower levels than tobacco smoke. Always consider your residents before adopting stricter smoke-free policies, and be sure to amend all individual resident leases if you choose to prohibit ENDS.

**Link:** To read **HUD** Notice PIH-2017-03, go to https://portal.hud.gov/hudportal/documents/huddoc?id=pih2017-03.pdf.
GENERATOR
AND
DISASTER
Follow Five Safety Tips When Using Backup Generators After a Disaster

Extreme weather frequently knocks over electrical lines. Owners and residents who rely on backup generators for temporary power should be aware of the danger of inhaling carbon monoxide. A 2012 review of the American Journal of Public Health identified 75 deaths from carbon monoxide poisoning during natural disasters between 1991 and 2009. And backup generators were responsible for 83 percent of deaths.

In anticipation of the storm or future storms, you or your tenants may have obtained, or considered investing in, backup generators. Generators offer the convenience of using our everyday devices despite a prolonged power outage. They can even be life-saving in the case of hospitals or elderly persons who depend on oxygen machines. But they can be dangerous if used improperly. So before you fire up a backup generator, there are a few safety tips to keep in mind:

TIP #1: Place outside and strictly follow manufacturer recommendations. If it’s necessary to use a portable generator, manufacturer recommendations and specifications must be strictly followed. And the generator should always be positioned outside the structure. Generators emit carbon monoxide—as much as hundreds of cars, according to the U.S. Product Safety Commission—so portable generators should never be used indoors. Keep the generator as far as possible from windows and out of the rain. This means you’ll have to stay in the dark through the duration of the storm and wait for the downpour to pass before you start the engine.

TIP #2: Allow generator to cool before refueling. Gasoline is flammable and can pose a fire hazard in contact with a hot generator. The National Safety Council recommends allowing the generator to cool for at least two minutes before refueling and always use fresh gasoline. Also, generators should never be operated near combustible materials.

TIP #3: Get your wires straight. The National Fire Protection Association advises having a qualified electrician install a properly rated transfer switch if you plan to connect the generator to the house wiring to power appliances. Otherwise, make sure devices are plugged directly into the generator or a heavy-duty outdoor-rated extension cord. Check all cords for tears or other signs of wear and make sure you’re using a grounded, three-prong plug.

TIP #4: Be mindful of backfeed. This is to prevent electrocutions associated with portable generators plugged into household circuits. The problem of backfeed in electrical energy is a potential risk for electrical energy workers. When using gasoline- and diesel-powered portable generators to supply power to a building, switch the main breaker or fuse on the service panel to the “off” position before starting the generator. This will prevent power lines from being inadvertently energized by backfeed electrical energy from the generators, and help protect utility line workers or other repair workers or people in neighboring buildings from possible electrocution. If you plug the generator into a household circuit without turning the main breaker to the “off” position or removing the main fuse, the electrical current could reverse, go back through the circuit to the outside power grid, and energize power lines or electrical systems in other buildings at or near their original voltage without the knowledge of utility or other workers.

TIP #5: Prioritize the necessities. Though it may be tempting to power your entire office or apartment to stave off the boredom of a prolonged blackout, generators ultimately are designed to power the necessities. Be careful not to overload your generator, as it could damage appliances or cause a fire, according to the California Energy Commission. Be sure the total wattage used is less than the output rating of the generator.
LEAD
SAFE
HOUSING
HUD Issues Guidance on Implementing Lead Safe Housing Rule

Preventing lead poisoning in children who will be born in 2018 would provide an estimated $84 billion in long-term benefits, according to a recent report from the Health Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts. The savings would come from reduced spending on health care costs, special education, juvenile justice, and other social services. The report says, “Lead-poisoned children are more likely to struggle in school, drop out, get into trouble with the law, underperform in the workplace, and earn less throughout their lives, independent of other social and economic factors.”

The Centers for Disease Control and Prevention (CDC) says there is no safe level of lead for children. Researchers have found that even at low levels, lead can damage a child’s brain, lowering intelligence and damaging his or her self-control and attention span. Earlier this year, HUD updated the Lead Safe Housing Rule (LSHR) to reflect the advice of the CDC with regard to children’s blood lead levels for all federally assisted housing. The revised rule adopts a lower threshold for children’s blood lead levels, dropping the lead level that requires action by apartment owners from 10 ug/dl to 5 ug/dl.

Under the rule, when a child has been found to have an elevated blood lead level of 5 ug/dl, the housing provider is required to perform a series of interventions, including notifying the HUD field office and the Office of Lead Hazard Control and Healthy Homes and performing a risk inspection of the child’s housing unit and the common areas serving it. It is no longer sufficient to visually inspect these areas for deteriorated paint; under the updated rule a certified risk assessor must make the determination regarding the presence of potential lead hazards.

The rule also gives HUD the authority to recalibrate this level based on national survey data. This new level matches that recommended by the CDC, which describes levels in excess of this amount as “elevated blood lead levels” (EBLL). While the LSHR applies to all federally owned and assisted housing built prior to 1978, the requirements vary per program, including which party or individual is responsible for various activities.

HUD’s Office of Public and Indian Housing recently issued Notice PIH 2017-13, providing guidance regarding actions that must be taken when a child under the age of 6 is found to have an EBLL. This notice applies to public housing agencies (PHAs), Housing Choice Voucher (HCV) property owners, and Project-Based Voucher (PBV) property owners.
General Responsibilities

The notice describes a basic set of responsibilities and the actions a PHA or an owner is responsible for, depending on the form of housing assistance. In general, when there is a confirmed case of EBLL, the HUD Field Office and Headquarters Office of Lead Hazard Control must be notified, as well as the local public health department if the EBLL is identified by a medical healthcare professional not associated with the health department.

The PHA must conduct an “environmental investigation” of the child’s unit and common areas serving that unit. An environmental investigation is a “risk assessment” with additional questions for the family regarding other sources of lead exposure such as water or daycare settings and tests those other potential sources of lead exposure. A risk assessment includes a visual inspection of a unit and limited wipe samplings. If lead-based paint hazards are found in the child’s unit, the PHA must perform risk assessments in other units where a child under the age of 6 lives or is expected to live, as well as risk assessments of common areas serving those units. Random sampling is allowed for buildings built before 1960 that have more than 20 units and for properties built between 1960 and 1977 with more than 10 units.

Where lead-paint hazards exist, they must be controlled (generally within 30 days) by someone certified to abate or remove lead-paint hazards. PHAs must ensure that public housing units and common areas are maintained as lead-safe and must conduct periodic re-evaluations every two years using a certified risk assessor.

If the annual amount of PBV for a unit is more than $5,000, the owner must conduct the re-evaluation every two years. And PBV properties receiving more than $5,000 per unit annually are required to ensure that a risk assessment is conducted by a certified risk assessor regardless of whether there is a child under the age of 6 living in a unit.

In the HCV and PBV context, PHAs must also monitor owners’ compliance, which may be performed in conjunction with periodic Housing Quality Standards (HQS) inspections; HQS inspections must occur no less frequently than once a year if there was deteriorated paint or other known lead-based paint hazards.

Required Steps for PHA or Owner

Here are the main steps to take for an owner or PHA when responding to an elevated blood lead level case.

- Verify EBLL case report with medical provider or health department, if report came from elsewhere.
- Maintain confidentiality for all records related to the EBLL, and ensure the identity of the child or family are not disclosed to other residents in multiunit property.
- Notify health department of EBLL case (if it is not already aware of it) within five days (either directly or through PHA).
- Notify HUD field office contact and LeadRegulations@hud.gov of EBLL case within five days (either directly or through PHA).
- Engage certified lead risk assessor to perform environmental investigation of child's unit within 15 days.
- Notify residents of child's unit of results of environmental investigation within 15 days directly, but not by posting in common area.
If lead-based paint hazards are found in the child's unit or in a common area servicing that unit in a multiunit property, engage a certified lead abatement professional or certified renovation firm to control the hazards, and a certified lead risk assessor to conduct risk assessments of other assisted dwelling units with a child under age 6 ("other covered units").

In a multi-unit property, notify residents that lead-based evaluation will be performed.

If lead-based paint hazards are identified in other covered units, engage a certified lead abatement professional or certified renovation firm, and notify other residents of the results of the risk assessment and that lead hazard control work will be performed.

Ensure adequate occupant protection, including temporary relocation for EBLL family and/or other families, when required, until their dwelling unit passes clearance.

Complete lead hazard control in child's unit, and in common area servicing that unit if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report.

Complete lead hazard control in other covered units and common areas servicing those units if lead-based paint hazards are identified, within 30 days of receiving environmental investigation report, if up to 20 other covered units, or 90 days, if over 20 other covered units.

Ensure all dwelling units and common areas that received lead hazard control pass clearance as determined by a certified risk assessor.

In multi-unit property, notify other residents that lead hazard control work was completed, and the results.

Provide all documentation to the HUD field office contact in 10 business days.

Disclose information about lead-based paint hazards and all new records and report to residents upon lease initiation or renewal (if not already disclosed). ♦
SENATOR
PAUL
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REPORT
The Rent is Too (Darn) High


A recent report by the Inspector General for the Department of Housing and Urban Development (HUD) found that, in 2016, taxpayers footed a bill of over $3 million to cover higher rent for Section 8 units in sampled co-ops than the owners charged non-subsidized units on the same properties.

You can get the full story in this week’s Waste Report HERE or below.

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The guy sitting next to you on a plane paid $150 less for his ticket, or your neighbor bought a lawn mower on sale...a week after you bought the same one at regular price.

It can be frustrating when you pay for something only to find out other people got the same thing for a cheaper price. Well, if you pay taxes, get ready to be frustrated!!!

According to the Inspector General (IG) for the Department of Housing and Urban Development (HUD), the federal government paid higher rent for Section 8 housing than non-subsidized renters paid in the same buildings.[1]

How Much More?

According to the IG’s report, the total additional cost to the taxpayer of paying higher rent for Section 8 units came out to over $3.1 million - just in 2016 - for the housing developments they sampled.[2] However, since their sample was only 28% of the potential number of developments where this could have occurred, the taxpayer could be out as much as $10 million or more.

At the low end, the difference in rent was as little as $2 a month, but amazingly, at the high end, the taxpayer could be forking over nearly $2,900 more for a subsidized unit than they would have paid for a similar unit on the open market.[3]

Cooperating for Lower Rent

The way Section 8 works is renters pay a percentage of their income toward the rent of their housing unit. The government picks up the difference between the tenants’ rent and the full rental cost of the unit. So if the unit rent goes up, the taxpayer picks up the full increase.[4] This also creates a situation where Section 8 tenants might not object to a rent increase because they do not personally pay any more, since the taxpayer does instead.
Given this, at first glance, one might envision a greedy landlord bilking the government for every dollar he can get. However, the target of the IG’s investigation was cooperatives properties (co-ops). In other words, resident-owned buildings.

In a co-op, “members” pay a maintenance fee (called rent) that covers building operations, amenities, and upkeep and pays down any mortgage on the building - similar to an HOA fee.[5] Since these fees cover communal costs, charging one group of renters a higher rent (like those with a government subsidy) allows others (non-subsidized renters) to pay less while collectively all the building costs are met.

By charging Section 8 tenants more, the non-subsidized tenants reap a benefit. As the IG put it (under the header “Taxpayer-Funded Windfall”): “[B]y paying more in assistance and allowing non-Section 8 households to pay less, HUD, and ultimately the taxpayer, is subsidizing the non-Section 8 households.”[6]

**Regulatory Oversight**

Technically, current law and HUD regulations prohibit renting a Section 8 unit for more than a comparable unit in the same area would rent for on the open market, but not specifically in the same building.[7]

This is unique to co-ops, because public housing authorities and corporate or privately owned buildings cannot charge disparate rents.[8] Somehow in the course of establishing those rules, co-ops were overlooked, and it is costing you at least $3.1 million a year.

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[3] Ibid.


[7] Ibid., 5.

[8] Ibid.
The rent is too (darn) high

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2 Ibid., 1.
3 Ibid.
4 Ibid., 6.
5 Ibid., 5.
6 Ibid.
7 Ibid., 3.
8 Ibid., 6.